IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3807 of 2007()

CC.634/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, ATTINGAL

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PETITIONER: ACCUSED NO.3

RENJITH,S/O.APPU,PARUTHUR BROTHERS
BHAVAN,CHEMBUR DESOM,MUDACKAL VILLAGE.

BY ADV. SRI.SAJI MATHEW
SRI.DENU JOSEPH

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

2. BIJUKUMAR,S/O.SIVASHANKARAN,
PARATHUR KUZHIVILA VEETIL,CHEMBUR DESOM,
MUDACKAL VILLAGE.

3. LALITHA,W/O.SHIVASHANKARAN,
PARUTHUR KUZHIVILA VEETTIL,CHEMBUR DESOM,
MUDACKAL VILLAGE.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3807 of 2007

Dated this the 19th day of December 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable under Sections 324 and 447 read with 34 I.P.C. Altogether there were three accused persons. As against the two other co-accused, the matter has been settled and has been recorded and proceedings has been closed. The case against the petitioner has been split up. The petitioner had not entered appearance. The case against the petitioner is now pending as C.C.No.634/2007 before the Judicial First Class Magistrate Court, Attingal.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. Reckoning him as an absconding accused, warrant of arrest has been issued by the learned Magistrate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously.

He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner further submits that he is employed abroad. He has only 40 days left in India. He prays that there may be a direction to expeditiously dispose of the case. The prayer of the petitioner for expeditious disposal even when he has not surrendered and co-operated with the court does appear to me to be strange. But all the same, I take note of the plight of the petitioner. I need only mention that, the petitioner, after appearing before the learned Magistrate can apply to the learned Magistrate for expeditious disposal of the case. The learned Magistrate must consider the said request and pass appropriate orders.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007